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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,613	04/07/2005	Klaus Lietzau	10537/288	6750
26646 7590 10/30/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
NORTON, JENNIFER L				
ART UNIT		PAPER NUMBER		
2121				
MAIL DATE		DELIVERY MODE		
10/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/530,613

Applicant(s)

LIETZAU, KLAUS

Examiner

Jennifer L. Norton

Art Unit

2121

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Albert DeCady/
Supervisory Patent Examiner, Art Unit 2121

Continuation of 11, does NOT place the application in condition for allowance because: Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments, see Remarks pgs. 6-9, filed 16 October 2008 with respect to claims 21-24, 27-29 and 32 under 35 U.S.C. 102(b) and claims 25, 26, 30, 31 and 33-36 under 35 U.S.C. 103(a) have been fully considered but they are not persuasive, and stand rejected as set forth in the Final Office Action mailed 26 August 2008.

With respect to the Applicant's arguments that the prior art fails to teach, "a conversion device, input variables of the conversion device corresponding to output variables of the controllers, the conversion device configured to calculate, at least from the output variables of the controllers, the correcting variables, the conversion device configured to superimpose, on the output variables of the controllers, an input control component that is a function of an actual value to calculate the correcting variables"; the Examiner respectfully disagrees.

Vos discloses (col. 6, lines 1-8) "Inputs to the FADEC which are used in the SLPC algorithm include flight condition inputs such as the true air speed 38, the ambient air pressure 40, and the ambient air temperature 42. Input from the single lever 44 is provided to the FADEC 30 through the line 46.

The FADEC 30 receives inputs from the various engine control sensors and provides control outputs to the various servos as depicted in FIG. 1. Specifically, the CPU 32 outputs throttle servo commands to the throttle servo 24, and receives MAP sensor signals from the MAP sensor 26."

(col. 6, lines 13-19) "For controlling the engine performance parameters, the CPU 32 also receives a number of engine status parameters such as Exhaust Gas Temperature (EGT), Cylinder Head Temperature signals (CHTs), Universal Exhaust Gas Oxygen sensor signals (UEGO), Air Charge Temperature signals (ACT), Mass Airflow signals (MAF), and the Exhaust Pressure Signals (PEXH), over a bus 50."

(col. 7, lines 2-8) "In operation, the pilot commands the desired thrust percentage 64 by using the single lever 44 (FIG. 1). The control mixing algorithm (preferably, a software subroutine running in the FADEC 30) transforms the input thrust percentage into a MAP set point to control the engine power/load controller 66 which, in the proposed embodiment, drives the throttle servo 24 and the waste gate servo 20 (FIG. 1) to achieve the desired inlet manifold pressure.

(col. 7, lines 10-15) "The control algorithm 62 also outputs a propeller speed set point (RPM) to the propeller speed controller 68 which, in the preferred embodiment, includes pitch servo 6, to control propeller speed by actuating the propeller pitch until the measured speed matches the speed set point."

In summary, Vos discloses the FADEC which uses output variables of the controllers (i.e. servos), wherein the FADEC transforms the outputs into a set point, to superimpose the setpoint on the output of the controllers to obtain an input control component to the controller which is a function of the an actual value (i.e. the output of the controller) to calculate the correction variables (i.e. the result of the mixing algorithm) to achieve the desired parameter of the controller. Hence, Vos meets Applicant's claimed limitations "a conversion device, input variables of the conversion device corresponding to output variables of the controllers, the conversion device configured to calculate, at least from the output variables of the controllers, the correcting variables, the conversion device configured to superimpose, on the output variables of the controllers, an input control component that is a function of an actual value to calculate the correcting variables".

Claims 21-24, 27-29 and 32 stand rejected under 35 U.S.C. 102(b) as set forth in the Final Office Action mailed 26 August 2008.

Applicant's arguments, see Remarks pgs. 7-9, filed 16 October 2008 with respect to claims 25, 26, 30, 31 and 33-36 under 35 U.S.C. 103(a) have been fully considered but they are not persuasive. Claims 25, 26, 30, 31 and 33-36 stand rejected under 35 U.S.C. 103(a) as set forth in the Final Office Action mailed 26 August 2008.